



DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

31 CFR Part 344

[FISCAL-2022-0002]

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U.S. Treasury Securities--State and Local Government Series

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking with request for comments.

SUMMARY: The Department of the Treasury (Treasury) is issuing this notice of proposed rulemaking (NPRM) to amend the regulations governing State and Local Government Series (SLGS) securities. Treasury is proposing to amend the SLGS regulations to address misuse of the SLGS program, most notably the use of program flexibilities by tax-advantaged entities, usually a state or local government, investing in SLGS securities to create impermissible cost-free options. This NPRM proposes amendments to existing regulations to help stop such activity. In addition, this NPRM proposes administrative changes to increase efficiencies in the program.

DATES: To be considered, comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments by either of the following methods:

Internet: <https://www.regulations.gov> (via the online comment form for this NPRM as posted within Docket ID No. FISCAL-2022-0002 at www.regulations.gov, the Federal e-rulemaking portal);

U.S. Mail: Mike Goodwin, Division Director, or Jared Waters, Program Manager, Bureau of the Fiscal Service, P.O. Box 396, Parkersburg, WV 26106-1328.

All submissions received must be addressed to the Bureau of the Fiscal Service and include the Docket ID Number FISCAL-2022-0002. All comments received will be posted without change to www.regulations.gov. The posting will include any personal information that you provide in the submission.

FOR FURTHER INFORMATION CONTACT: Mike Goodwin, Division Director, Jared Waters, Program Manager, Brian Metz, Senior Counsel, or Elizabeth Spears, Senior Counsel, at SLGS@fiscal.treasury.gov or (304) 480-5299.

SUPPLEMENTARY INFORMATION:

I. Regulatory Background.

A. SLGS Program.

SLGS securities are non-marketable Treasury securities that are available only for purchase by an Issuer, as defined in 31 CFR § 344.1, of tax-advantaged securities (Issuers). The purpose of the SLGS program is to assist Issuers when investing proceeds from bond issuances in complying with yield restriction and rebate requirements applicable to tax-advantaged securities under the Internal Revenue Code. Because an Issuer's bond issuance process is characterized by several variables that may take a number of weeks to resolve, flexibility has been built into the SLGS program to allow Issuers to customize the SLGS security terms such as interest rate, maturity, and issue date. Over the years, Treasury has amended the SLGS regulations in an effort to maintain SLGS securities as an attractive investment alternative to marketable securities for Issuers, while also preventing the program from being misused by Issuers and from becoming burdensome to Treasury financing operations.

Treasury has repeatedly stated that speculation by Issuers in interest rate movements between marketable Treasury securities and/or SLGS securities is both

inconsistent with the purpose of the SLGS program and is prohibited by the SLGS regulations. Despite Treasury's prohibition on such speculation, impermissible transactions have been observed within the SLGS program. Treasury attributes the impermissible transactions to the exploitation of certain flexibilities in the program. The proposed amendments to the regulations are to reinforce to Issuers the prohibition on these transactions and to make it less likely that SLGS investors can use the flexibilities to impermissibly create cost-free options based on interest rate movements. This NPRM identifies in Section E the observed cost-free options that are prohibited and proposes amendments to reduce Issuers' flexibility in structuring the terms of SLGS securities to create such cost-free options. Treasury is also proposing other changes that are designed to improve the administration of the SLGS program.

B. Flexibilities Added to the SLGS Program in 1996.

In 1996, Treasury revised the regulations governing SLGS securities to make the program a more flexible and competitive investment vehicle for Issuers in a manner that was intended to be cost effective for them. 61 FR 55690 (October 28, 1996). The 1996 final rule eliminated several requirements such as the Issuer's certifications to purchase SLGS securities. In addition, the regulations were amended to permit an Issuer to subscribe for SLGS securities and subsequently cancel the subscription, without a monetary penalty, under certain circumstances.

C. Cost-Free Options Addressed in 1997.

In 1997, Treasury amended the regulations to clarify that certain transactions in which Issuers previously used subscriptions for SLGS securities to provide a cost-free interest rate hedge or option were prohibited. 62 FR 46444 (September 3, 1997). The 1997 final rule added §§ 344.2(f)(1) and (f)(2), stating that it is impermissible to subscribe for SLGS securities for deposit in a defeasance escrow or fund if: (1) the

amount of SLGS securities subscribed for, plus the securities already in the escrow or fund, plus the amount the Issuer has acquired or has a right to acquire for deposit in the escrow or fund, exceeds the total amount of securities needed to fund such escrow or fund, and (2) the securities in the escrow or fund are subject to an agreement conditioned on changes in the interest rate on marketable Treasury securities.

D. Cost-Free Options Addressed in 2004.

Treasury has often noted that the prices established for SLGS securities do not include the cost of an option. Although Treasury considered whether to allow optionality on SLGS securities if Treasury were compensated, Treasury concluded in a 2004 NPRM that there was no practical way to charge for the value of an option. 69 FR 58756 (September 30, 2004).

E. Cost-Free Options Addressed in 2005.

In a 2005 final rule, Treasury amended the regulations to prohibit practices that were variations on the use of SLGS securities to create some form of a cost-free option. These practices included: (1) the redemption before maturity or sale of securities to reinvest in a higher yielding SLGS or marketable security, and (2) the cancellation of SLGS subscriptions upon rising interest rates and re-subscribing for SLGS securities at a higher yield. 70 FR 37904 (June 30, 2005). In an attempt to stop recurring misuse of the SLGS program, the preamble reaffirmed that it is “inappropriate to use the SLGS securities program as an option” and that such practice is “contrary to the purpose of the program.”

Under current regulations, Issuers are not allowed to create a cost-free option. 31 CFR § 344.2(f) provides: “*What are some practices involving SLGS securities that are not permitted?* (1) *In General.* For SLGS securities subscribed for on or after August 15, 2005, it is impermissible: (i) To use the SLGS program to create a cost-free option....”

II. Treasury's Proposals to Address Creation of Impermissible Cost-Free Options.

During escrow restructurings, Issuers often redeem SLGS securities before maturity (early redemption) and reinvest the proceeds in SLGS or marketable securities at a higher yield to eliminate “negative arbitrage” under the Internal Revenue Code. Negative arbitrage occurs when bond proceeds are invested by an Issuer at a yield that is less than the yield on the bond issue, often as a result of market conditions where the maximum SLGS rates available are lower than what would be permissible under arbitrage provisions of the Internal Revenue Code (26 U.S.C. 148). Such restructuring transactions to eliminate negative arbitrage generally are allowed under the current SLGS regulations, so long as a cost-free option is not created. However, changing the terms of or early redemption of SLGS securities to take advantage of infrequent pricing of SLGS securities is prohibited under the current regulations even when undertaken to eliminate negative arbitrage. Section 244.2(f)(1)(i) of the current regulations makes it impermissible “to use the SLGS program to create a cost-free option.” The rationale for this prohibition was previously explained in two prior Federal Register publications, in which Treasury specifically stated that cost-free options are impermissible, even if used to eliminate negative arbitrage. 69 FR 58756 (September 30, 2004) and 70 FR 37904 (June 30, 2005). Furthermore, section 244.2(f)(2) of the current regulations includes examples of negative arbitrage situations that are prohibited.

To further clarify the boundaries of the cost-free option prohibition, Treasury proposes modest reductions in the current flexibilities available under the SLGS regulations to eliminate the following three types of practices that create cost-free options in violation of the SLGS regulations:

- (1) Purchasing a long-term SLGS security and redeeming the security before maturity to capture redemption premium;

- (2) Establishing or changing the maturity and associated interest rate on SLGS securities already subscribed for to take advantage of interest rate movements, either to capture redemption premiums or to minimize losses or
- (3) Establishing or changing the SLGS subscription amount to maximize redemption premiums or minimize potential losses.

Any of these practices, alone or in combination, creates a cost-free option.

Treasury has repeatedly stated that manipulating the administrative flexibility designed in the SLGS regulations to create a cost-free option is an inappropriate use of the program and inconsistent with its purpose even when undertaken to eliminate negative arbitrage. Treasury incurs a direct cost from such manipulation because it is not compensated for the value of the cost-free option, which may generate large gains in the hands of the SLGS purchasers. In addition, SLGS transactions motivated by cost-free options result in volatility in Treasury's cash balances and difficulty in forecasting cash balances, which increases Treasury's borrowing and administrative costs, as previously identified in 2004 and in 2005. 69 FR 58756 (September 30, 2004) and 70 FR 37904 (June 30, 2005). The three practices identified above create features that are not available in marketable Treasury securities and result in additional costs to the Federal taxpayer.

For these reasons, this NPRM proposes the amendments described below to the SLGS regulations to eliminate these practices. Treasury believes that the proposed amendments retain sufficient flexibility for Issuers to be able to select maturities and interest payment dates, thereby continuing to make SLGS securities an attractive investment vehicle for Issuers. The proposed rule amendments will apply only to SLGS subscriptions started on or after the effective date of the final rule. Treasury anticipates that the effective date will be six months after the final rule's publication in the Federal Register.

A. Purchasing and Early Redemption of a Long-Term SLGS Security.

The first type of cost-free option identified in this NPRM is “purchasing a long-term SLGS security and redeeming the security before maturity in order to capture redemption premium.” To eliminate this cost-free option, Treasury proposes imposing a requirement that the Issuer match the maturity of the SLGS security with an underlying governmental purpose and hold Time Deposit securities, as defined by 31 CFR § 344.4, for a minimum amount of time before requesting an early redemption. The meaning of the phrase “governmental purpose” is intended to be consistent with its meaning pursuant to the Income Tax Regulations under section 148 of the Internal Revenue Code (26 U.S.C. 148). Thus, an underlying governmental purpose generally refers to the Issuer’s expected use of the invested funds; for example, financing a construction project, repaying a prior issue of bonds, or funding a debt service reserve.

1. No Maturity Longer Than Necessary. In a 2004 NPRM, Treasury proposed a provision that would make it impermissible for an Issuer to purchase a SLGS security with a maturity longer than was reasonably necessary to accomplish a governmental purpose of the Issuer. The provision was intended to address a practice where the Issuer, acting on movements of interest rates, would redeem the SLGS security before maturity to capture a premium. 69 FR 58756 (September 30, 2004). Based on public comments received, Treasury decided not to include the provision in the 2005 final rule. 70 FR 37904 (June 30, 2005).

However, due to more recently observed early redemption requests and changes to SLGS subscriptions that appear to have been made without a legitimate governmental purpose, Treasury is revisiting the previous proposal. Treasury believes that the costs to Treasury of early redemptions and changes to SLGS subscriptions have the potential to outweigh any administrative burden imposed on either Treasury or the Issuer. To help

ensure clarity, Treasury has added specific examples explaining the proposed amendment.

Treasury proposes two provisions that will require the Issuer to match the maturity of the SLGS security with an underlying governmental purpose in order to preclude the Issuer from purchasing a long-term SLGS security and redeeming it prior to maturity in order to capture redemption premium. First, Treasury proposes adding a new “duration” certification in § 344.2(e)(3), requiring the Issuer to certify that the length of the maturity of a SLGS security subscribed for is no longer than reasonably necessary for the underlying governmental purpose of the investment. Because Demand Deposit securities, defined at 31 CFR § 344.7, are one-day certificates of indebtedness, they will not be subject to the duration certification.

Second, Treasury proposes amending the non-exhaustive list of impermissible transactions in § 344.2(f)(1) by adding a new functional description in subsection (iv) that will make it an impermissible practice to purchase or redeem prior to maturity a SLGS security with a maturity that is longer than is reasonably necessary to accomplish the Issuer’s governmental purpose. This functional description is meant to encompass the policy behind the amendments Treasury is proposing in this NPRM while acknowledging that impermissible activity could occur in a variety of ways, including ways not described in the non-exhaustive list. To illustrate how the duration certification will apply to refunding escrow funds, bond debt service reserve funds, and project construction funds, new examples of impermissible transactions will be added to § 344.2(f)(2)(vii). Other examples will provide guidance on how the certification will apply to purchases and early redemptions of SLGS securities. Even with the addition of the new examples of impermissible practices, Treasury considers the list of examples to be non-exhaustive. There may be other transactions where manipulative practices create a cost-free option

using the flexibilities afforded to Issuers in the SLGS program. All such practices are prohibited. Conforming technical amendments will be made throughout the regulation.

2. Minimum Holding Period and Notification for Early Redemption of Time Deposit Securities. Under the current regulations, the Issuer may request early redemption of a Time Deposit security as early as the day after Treasury issues the SLGS security. Proposed § 344.6(a)(3) requires a 14-day minimum holding period after the security has been issued before the Issuer may request early redemption of a Time Deposit note or bond. Increasing the minimum holding period from 1 day to 14 days will increase the Issuer's interest rate risk and help to address the type of cost-free option described in this NPRM as "purchasing a long-term SLGS security and redeeming the security before maturity in order to capture redemption premium."

The SLGS rate table on the date a subscription is "started" establishes the maximum interest rate applied to a SLGS security based on the term of the security. The SLGS rate table in effect on the date of the early redemption request is used in determining if the SLGS security will be redeemed at a discount or premium. A premium might be earned under the current regulations if the Issuer impermissibly creates a cost-free option by either: (a) starting a subscription and redeeming the security prior to maturity in response to a fall in interest rates occurring between the subscription and issuance dates, or (b) changing the term of a SLGS security in a subscription and redeeming the security prior to maturity in response to a fall in interest rates occurring between the subscription and issuance dates. For instance, if the Issuer subscribes for a shorter-term SLGS security, changes the subscription to a longer-term security, and submits an early redemption request on the day after the issue date in response to interest rate movements, an impermissible cost-free option has been created, unless Treasury grants the Issuer a waiver in accordance with § 344.2(n). Increasing the minimum holding period before an Issuer may request early redemption will deter the creation of

this type of impermissible cost-free option by increasing the interest rate risk to a more meaningful level than exists under current regulations. It is Treasury's view that even more than *de minimis* risk to the Issuer does not change the fact that this is still a cost-free option and, either with or without risk, this is an impermissible practice.

Treasury does not believe that the proposed new holding period will impose undue hardship on Issuers that have a need for cash proceeds sooner than the maturity date that was chosen when the subscription was started. If new or intervening circumstances arise before issuance of the SLGS securities, the Issuer could take steps to change the subscription by adjusting the maturity to a shorter-term SLGS security. Additionally, if circumstances change after issuance of the SLGS securities, the Issuer may seek a waiver of the minimum holding period from Treasury as detailed in the regulations. The proposed new holding period would not apply to Time Deposit certificates of indebtedness or Demand Deposit securities, as these are short-term securities.

B. Establishing or Changing the Maturity and Interest Rate on SLGS Securities.

The second type of cost-free option identified in this NPRM is referred to as “establishing or changing the maturity and associated interest rate on SLGS securities already subscribed for to take advantage of interest rate movements, either to capture redemption premiums or to minimize losses.” To eliminate this cost-free option, Treasury proposes that the Issuer be required to specify the maturity of Time Deposit securities when a subscription is started and be limited in adjustments that can be made to the maturity of Time Deposit securities.

1. Specifying the Maturity of Time Deposit Securities.

Current regulations permit Issuers to subscribe for SLGS up to 60 days in advance of issuance and until 3 p.m. Eastern Time on the day of issuance to specify the maturity for Time Deposit securities. This flexibility makes it possible for the Issuer to

impermissibly create the cost-free option described in this NPRM as “establishing or changing the maturity and associated interest rate on SLGS securities already subscribed for to take advantage of interest rate movements, either to capture redemption premiums or to minimize losses.”

Treasury’s research reveals that approximately 99 percent of SLGS subscriptions are started with a stated maturity date. Only a small percentage of subscriptions have had changes made by Issuers to the maturity dates of the securities following the start of a subscription. Given that the overwhelming majority of Issuers have identified the maturity date at the start of the SLGS subscription process, Treasury proposes that all Issuers must provide a maturity date at the start of a subscription, rather than by the time of completion of the subscription. Treasury proposes that when starting a Time Deposit security subscription under § 344.5(b)(5) and completing a subscription under § 344.5(e)(2), the Issuer must separately itemize the maturity date(s) by individual Time Deposit security. Issuers will have the ability to adjust the maturities, within certain parameters, if necessary.

2. Limiting Maturity Adjustments on Time Deposit Securities.

Additionally, Treasury proposes to limit Issuer adjustments to the maturity of a Time Deposit security before issuance. The current SLGS regulations permit the Issuer to make unrestricted changes to the maturity of a Time Deposit security and choose any term from 30 days to 40 years (31 CFR § 344.4(a)). This flexibility is an attractive feature of the SLGS program. However, when this flexibility results in the Issuer “establishing or changing the maturity and associated interest rate on SLGS securities already subscribed for to take advantage of interest rate movements, either to capture redemption premiums or to minimize losses,” an impermissible cost-free option is created.

Proposed § 344.5(d)(4), governing how to change a subscription, and § 344.5(e)(7), governing when a subscription is completed, state that the Issuer cannot change the maturity date on a Time Deposit security by more than 30 days for certificates of indebtedness, 6 months for notes, and 1 year for bonds. The proposed amendments retain flexibility in setting maturity of SLGS securities, while removing the ability to alter maturities beyond the time required to accomplish a governmental purpose.

C. Establishing or Changing the SLGS Subscription Amount.

The third type of cost-free option identified in this NPRM is referred to as “establishing or changing the SLGS subscription amount in order to maximize redemption premiums or minimize potential losses.” Treasury proposes to limit principal amount changes to Time Deposit securities at the individual security level to address this cost-free option.

1. Changing Principal Amounts on Time Deposit Securities.

Before 2005, the Issuer could change the aggregate principal amount specified in the initial subscription by up to \$10 million or 10 percent, whichever was greater. In a 2004 NPRM, Treasury proposed a size amendment provision to permit a change in the aggregate principal amount by 10 percent above or below the amount originally specified in the subscription. 69 FR 58756 (September 30, 2004). The provision was adopted in the 2005 final rule. 70 FR 37904 (June 30, 2005).

The current regulation provides that the aggregate principal amount originally specified in the SLGS subscription cannot be changed by more than 10 percent. Because a single subscription may be used to purchase multiple Time Deposit securities with different principal and maturity terms, the current size provision at the aggregate subscription level is inadequate to address Treasury’s concerns about the creation of cost-free options at the individual security level. Treasury proposes to limit the amount of

principal that each Time Deposit security in a subscription can be changed. Proposed § 344.5(d)(2) applies the 10 percent limit at the individual SLGS security level instead of at the case level, which may be composed of multiple SLGS securities.

Notwithstanding the above, even if a principal adjustment within 10 percent of the original subscription amount of a particular Time Deposit security complies with proposed § 344.5(d)(2), that adjustment would violate the current prohibition in § 344.2(f)(1)(i) if the change is motivated by interest rate movements. In that case, the Issuer would be creating a cost-free option by “establishing or changing the SLGS subscription amount in order to maximize redemption premiums or minimize potential losses.”

2. Changing Principal Amounts on Demand Deposit Securities.

Treasury does not propose to amend § 344.8(d) pertaining to Demand Deposit securities. Demand Deposit securities will remain subject to the current rule that the aggregate principal amount may not be changed by more than 10 percent above or below the amount originally specified in the subscription.

III. Administrative Changes.

On October 7, 2012, the Secretary of the Treasury issued Treasury Order 136-01, establishing within the Department of the Treasury, the Bureau of the Fiscal Service (Fiscal Service). The new bureau consolidated the bureaus formerly known as the Financial Management Service (FMS) and the Bureau of the Public Debt (BPD). 78 FR 31629 (May 24, 2013).

On October 2, 2013, Treasury published a final rule entitled “Regulatory Reorganization; Administrative Changes to Regulations Due to the Consolidation of the Financial Management Service and the Bureau of the Public Debt Into the Bureau of the Fiscal Service.” This final rule renamed subchapter A, transferred parts 306 through 391

of subchapter B to subchapter A, and removed and reserved subchapter B in 31 CFR chapter II. This had the effect of moving the SLGS regulations from subchapter B to subchapter A; removing all references to “Bureau of the Public Debt” and adding, in their place, “Bureau of the Fiscal Service”; removing all references to “BPD” and “Public Debt” and adding, in their place, “Fiscal Service”; and, removing all references to “www.publicdebt.treas.gov” and adding, in each place, “www.fiscal.treasury.gov”, but did not make any corresponding changes to the current requirements of the SLGS regulations. 78 FR 60695 (October 2, 2013).

This NPRM makes other minor administrative or technical changes. See, e.g., proposed §§ 344.0(a), 344.1, 344.2(d), (e)(2)(i), (e)(4), (f)(2)(iv), (f)(2)(v), (g), 344.3(e), 344.4(b)(1), 344.5(a)-(b), (d)-(f), 344.6(a)(3), (g), 344.7(b)(1)-(2), 344.8(a)-(b), (e), and 344.9(a). Some of these changes are noted below.

A. Purpose of the SLGS Program.

Previously § 344.0(a) provided that SLGS securities may be issued to assist Issuers in complying with the yield restriction and rebate requirements applicable to tax-exempt securities under the Internal Revenue Code (26 U.S.C. 148). Treasury issued a final rule in 2005 deleting the language relating to amounts that “assist in complying with applicable provisions of the Internal Revenue Code relating to the tax exemption” stating that this language was somewhat vague and proved too difficult to administer. 70 FR 37904, 37909, June 30, 2005. This deletion has had the unintended consequence of confusing some Issuers about the purpose of the SLGS program. Treasury proposes to amend § 344.0(a) by reinserting language that the purpose of the SLGS program is “to assist in complying with applicable provisions of the Internal Revenue Code.”

B. Definitions Updates.

The 2005 final rule amended the regulations to require certifications under

§ 344.2(e)(2)(A) if Issuers purchase SLGS securities with any amount received from the sale or redemption before maturity of any marketable security, that the yield on such SLGS security does not exceed the yield at which such marketable security was sold or redeemed. The preamble of the 2005 final rule explained that “marketable securities” was a broader category than Treasury securities and could include “marketable securities that have a lower credit rating than Treasury securities.” 70 FR 37904, 37906 (June 30, 2005).

Since 2005, the SLGS Frequently Asked Questions have explained that a “marketable security” is “any security other than a State or Local Government Series (SLGS) security. Examples of marketable securities include Treasury securities (other than SLGS securities), guaranteed investment contracts, and federal agency securities.” <https://www.slgs.gov>. While this definition may appear broad, given that owners of SLGS securities are generally restricted in the types of investments they may purchase with tax-advantaged bond proceeds, this definition has served to clarify how the term “marketable security” is used in the context of the SLGS regulations.

Treasury proposes adding a definition of “marketable security” under § 344.1 that closely aligns with the example in the SLGS Frequently Asked Questions. The proposed definition states, “Marketable security, with reference to the types of securities that issuers of tax-advantaged securities are permitted to purchase with tax-advantaged proceeds, means any security other than a SLGS security. Examples of marketable securities include Treasury securities (other than SLGS securities) and federal agency securities.” Treasury is not incorporating “guaranteed investment contracts” within the proposed definition of “marketable security.” This change is not because Treasury intends to allow guaranteed investment contracts to be used to create cost-free options, but is meant to keep the definition of “marketable security” more in line with industry use. For the avoidance of doubt, Treasury affirms that the use of guaranteed investment

contracts, any other nonmarketable security, or any other means to create a cost-free option, is prohibited. The definition would apply throughout the rule whenever the term “marketable security” is used.

Additionally, Treasury proposes adding a new definition of “cost-free option” under § 344.1 that states that the use of any provision(s) in the SLGS program to exploit movements in interest rates, including, but not limited to, those designed to provide marginal flexibility to Issuers in structuring their SLGS investments constitutes the creation of an impermissible cost-free option. Treasury has intentionally drafted the definition of cost-free option broadly to encompass all situations in which exploitation of the movement in interest rates is an impermissible practice.

Treasury further proposes adding a new definition of “governmental purpose” under § 344.1 that clarifies that using the SLGS program to create cost-free options is not a permitted governmental purpose. A permitted governmental purpose includes but is not limited to financing a construction project, repaying a prior issue of bonds, or funding a debt service reserve. The governmental purpose must be consistent with the purposes of the Income Tax Regulations under section 148 of the Internal Revenue Code.

Treasury also proposes adding a new definition of “tax-advantaged bond” under § 344.1 that corresponds with the definition of the types of bonds to which the relevant portions of the Internal Revenue Code and the Income Tax Regulations (generally 26 U.S.C. 148 and 26 CFR 1.148-0 through 1.148-11) apply. The Internal Revenue Code is dynamic and new types tax-advantaged bonds have been created and could be created in the future. The definition of “tax-advantaged bond” includes (i) a tax-exempt bond, (ii) a taxable bond that provides a federal tax credit to the investor with respect to the Issuer’s borrowing costs, (iii) a taxable bond that provides a refundable federal tax credit payable directly to the Issuer for its borrowing cost, and (iv) any future similar bond that provides a federal tax benefit that reduces an Issuers’ borrowing cost. (26 CFR 1.150-1(b)).

Treasury proposes amending the definition of “business day” under § 344.1 to clarify which days normal processing of SLGS securities transactions will occur. Section 6103 of Title 5 of the United States Code sets forth which days are considered “legal public holidays.” Generally, federal agencies are closed for business on legal public holidays and such holidays are non-workdays for federal employees. However, while federal agencies may be closed on such days, the Federal Reserve Bank of New York may still be open and conducting payment transactions. Because payment transactions are still possible, even though the Bureau of the Fiscal Service may be closed for most transactions, scheduled payments for SLGS securities still occur those days when the Federal Reserve Bank of New York is open. The revision to the definition of “business day” clarifies when normal SLGS transactions may occur and payments will be processed.

Finally, Treasury proposes amending the definition of “eligible source of funds” under § 344.1 to better align with the relevant portions of the Internal Revenue Code and the Income Tax Regulations. New types of tax-advantaged bonds have been and can be added to the Internal Revenue Code. Treasury is amending the definition of “eligible source of funds” to include proceeds of all types of tax-advantaged bonds as defined in 26 CFR 1.150-1(b), including those created after the date of any SLGS final rule.

C. Certification of Eligibility to Purchase.

Given that the purpose of the SLGS program is to assist Issuers in complying with the yield restriction and rebate requirements applicable to tax-advantaged securities under the Internal Revenue Code, Treasury views it prudent to provide for what are currently rare situations when bonds lose their tax-advantaged status. In such cases, the proceeds used by the Issuer to purchase SLGS may no longer be considered an “eligible source of funds.”

Treasury proposes a new § 344.2(e)(4) that would add an Issuer certification as to its eligibility to purchase SLGS securities. Under this new section, the Issuer would certify that it will notify Treasury if the funds used to purchase SLGS securities were no longer considered “an eligible source of funds.” The notification requirement would apply to all outstanding SLGS securities (e.g. Time Deposit, Demand Deposit, and special 90-day certificates of indebtedness). Treasury would deem the notification as a request to redeem those outstanding Demand Deposit securities that are affected by the ineligibility under § 344.9, as amended. The Issuer would not be required to redeem Time Deposit securities that are outstanding at the time of the notification because Time Deposit securities are longer-term securities that would have been purchased with an eligible source of funds. Special 90-day certificates of indebtedness containing funds that are no longer considered “an eligible source of funds” would be redeemed either upon maturity (i.e., would not be rolled into a new special 90-day certificate of indebtedness) or upon reversion to Demand Deposit securities.

D. SLGS Rate Table.

Under the current regulation, § 344.4(b)(1), if the SLGS rate table is not released to the public by 10 a.m. Eastern Time on a particular business day, then the SLGS rate table for the preceding business day applies. Treasury proposes amending § 344.4(b)(1) to state that Treasury will post the SLGS rate table “by 10 a.m. Eastern Time each business day or as soon as practicable thereafter.” Under this proposed amendment, Treasury would have more flexibility in those instances where the SLGS rate table could not be released to the public by 10 a.m. Eastern Time. However, if no SLGS rate table has been published by 11 a.m. Eastern Time, then the SLGS rate table for the preceding business day would apply. This provides Issuers with more accurate pricing when there is a slight delay in publishing the SLGS rate table, while carrying over the previous day’s rate if circumstances prevent publication of a new SLGS rate table.

E. Establishment of the Issue Date.

Under the current rule in § 344.5(a) and § 344.8(a), the issue date for Time Deposit and Demand Deposit securities cannot be more than 60 calendar days after the date Treasury receives the subscription. Our data analysis reveals that less than 4 percent of SLGS subscriptions are started more than 45 days in advance of the issue date. Treasury proposes to amend these provisions to reduce the lead time for an Issuer to subscribe for SLGS securities from 60 to 45 calendar days. The subscription date controls which SLGS rate table applies to the subscription for securities. Moving the subscription date closer to the issue date would provide more accurate pricing for SLGS securities. Additionally, this proposed amendment has the added benefit of narrowing the window of time in which an impermissible cost-free option could be created. Conforming amendments would also be made to § 344.2(f)(2)(iv).

F. Subscription Process.

The current regulation specifies the information the Issuer must provide to start and complete the subscription process for both Time Deposit and Demand Deposit securities. The current rule in § 344.5 and § 344.8 specifies the information that the Issuer must provide when starting the SLGS subscription process (§ 344.5(b) and § 344.8(b)), how the Issuer may change a subscription (§ 344.5(d) and § 344.8(d)), and how the Issuer completes the subscription (§ 344.5(e) and § 344.8(e)). To implement Treasury's proposed amendments discussed in Sections II(A)(1) (duration certification regarding matching the SLGS maturity to the governmental purpose), II(B)(1) (specifying the maturity of each Time Deposit security in the subscription), II(C) (changing the principal amounts), III(C) (eligibility certification), and III(G) (including the EMMA® registration in the SLGS case, discussed below), Treasury proposes amending § 344.5 and § 344.8 to include these requirements.

Additionally, Treasury proposes amending § 344.5 and § 344.8 to more specifically identify currently required information such as the Issuer's address and banking information, while removing the requirement to specify the "title of an official authorized to purchase SLGS securities" as the title is no longer needed. In addition, the reference to the "proceeds that are derived, directly or indirectly, from the redemption before maturity of SLGS securities subscribed for on or before December 27, 1976," would be deleted as none of these securities remain outstanding.

G. Identification of the Tax-Advantaged Bond Issue.

Under the current rule in § 344.5(b)(5) and § 344.8(b)(5), the underlying tax-advantaged bond issue must be identified when the Issuer "starts" and "completes" the subscription for SLGS securities. The Issuer starts the subscription process by entering certain information in required data fields in SLGSafe, the secure internet site through which SLGS transactions are submitted. When starting a subscription, the Issuer typically enters information on the new or "refunding bonds," and not the "refunded bonds" or the "prior issue" being refinanced.

This requirement has been in the current regulation since the 2005 final rule required the Issuer to enter a description of the Issuer's tax-exempt bond issue such as "Water and Sewer Revenue Bonds Series 2004" (70 FR 37904, 37907, June 30, 2005). Subsequently, the Municipal Securities Rulemaking Board (MSRB) launched its Electronic Municipal Market Access (EMMA®) system, and EMMA® has now become the official repository for municipal securities disclosures.

Given that EMMA® generally contains information about state and local government bonds, Treasury proposes to amend the regulation to require that if a bond issue is registered in EMMA®, the Issuer must adhere to the naming convention supplied in the "issue description" field on the "Security Information" tab in EMMA® at

<https://emma.msrb.org> when describing the tax-advantaged bond in SLGSafe. If the EMMA® website revises its naming convention, the Issuer would supply the updated registration as it is presented in EMMA®, or its successor system.

The Issuer would be able to input the “EMMA® registration” into SLGSafe at the time the subscription is started (§ 344.5(b)(4) and § 344.8(b)(4)), but that information would not be required until such time as the subscription is completed (§ 344.5(e)(3) and § 344.8(e)(2)). This would allow additional time for the Issuer to update the description field if the bond issue has not yet been registered with EMMA® when the subscription is started. Conforming the underlying bond issuance field in SLGSafe with the EMMA®’s naming convention would assist Treasury in determining if the amounts are an “eligible source of funds” under § 344.1 that may be used to purchase SLGS securities.

H. Special Zero Interest Securities and Subscriptions on or before December 27, 1976.

Special zero interest securities were discontinued by Treasury on October 28, 1996. Therefore, Treasury proposes removing Subpart D of the current rule. In addition, all outstanding SLGS securities issued on or before December 27, 1976, matured by November 1, 2013. Therefore, Treasury proposes removing § 344.5(e)(4) and § 344.6(g) of the current rule.

I. Debt Limit Contingency.

1. Treasury’s Discretion to Leave Demand Deposit Securities Invested or to Invest in Special 90-day Certificates of Indebtedness. The current regulation states that at any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit, Treasury must invest any unredeemed Demand Deposit securities in special 90-day certificates of indebtedness. Treasury proposes to amend § 344.7(b) to provide the Secretary with the flexibility to exercise discretion to either leave the

unredeemed Demand Deposit securities invested or to invest them in special 90-day certificates of indebtedness.

2. Terms Applying to Invested Demand Deposit Securities. Treasury proposes to clarify § 344.7(b)(1) to provide that Demand Deposit securities during a debt limit contingency remain subject to the normal terms and conditions that apply to Demand Deposit securities.

3. Terms Applying to Special 90-day Certificates of Indebtedness. Treasury proposes to clarify § 344.7(b)(2) to provide that special 90-day certificates of indebtedness that are issued during a debt limit contingency remain subject to the same redemption rules as Demand Deposit securities. Treasury would roll over special 90-day certificates of indebtedness, along with accrued interest, into new special 90-day certificates of indebtedness when a debt limit contingency period lasts longer than 90 days.

4. End of a Debt Limit Contingency. At the end of a debt limit contingency, the Issuer currently has the option to keep the special 90-day certificates of indebtedness until maturity, redeem them before maturity, or reinvest them in Demand Deposit securities. Treasury proposes to amend § 344.7(b)(2) to provide that when regular Treasury borrowing operations resume, Treasury would redeem any special 90-day certificates of indebtedness and reinvest the proceeds, along with accrued interest, in Demand Deposit securities. As a result, the Issuer would once again hold the investment that the Issuer originally requested.

J. Notice Period for Redemption of Demand Deposit Securities.

The current regulation § 344.9(a) requires notice of 1 business day for redemption of Demand Deposit securities in the amount of \$10 million or less and notice of 3 business days for redemptions of more than \$10 million. To aid in Treasury's cash

forecasting and cash management, Treasury proposes amending § 344.9(a) to require notice of 5 business days for redemption of Demand Deposit securities and special 90-day certificates of indebtedness in the principal amount of \$500 million or more. Some Issuers hold numerous securities in multiple SLG Safe cases. To determine which notice period applies, the Issuer would calculate the total amount of proceeds to be derived from redemption of Demand Deposit securities and special 90-day certificates of indebtedness at the “owner,” and not the “case,” level.

IV. Procedural Requirements.

A. Executive Order 12866.

This NPRM is not a significant regulatory action as defined in Executive Order 12866, dated September 30, 1993. Therefore, a regulatory assessment of anticipated benefits, costs, and regulatory alternatives is not required.

B. Administrative Procedure Act (APA).

Because this NPRM relates to United States securities, which are contracts between Treasury and the owner of the security, this rule falls within the contract exception to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(2). As a result, the notice, public comment, and delayed effective date provisions of the APA are inapplicable to this rule. However, although not required under the APA, Treasury is seeking public comment on this NPRM.

C. Regulatory Flexibility Act.

Although this NPRM is being issued in proposed form to secure the benefit of public comment, it relates to matters of public contract and procedures for United States securities. Because a NPRM is not required, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, do not apply. However, Treasury will consider the potential impact of this proposed rule on small entities and will evaluate any proposed alternatives

that would allow Treasury to accomplish the objectives of this proposed rule without unduly burdening small entities by imposing a significant economic impact on them. Therefore, Treasury will accept comments pertaining to the potential impact and proposed alternatives during the comment period.

D. Paperwork Reduction Act.

The provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and its implementing regulations, 5 CFR part 1320, do not apply to this NPRM because there are no new or revised recordkeeping or reporting requirements. The existing OMB Paperwork Reduction Act control numbers for Part 344 are 1530-0044 and 1530-0065.

V. Proposed Regulations.

List of Subjects in 31 CFR Part 344.

Bonds, Government securities, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, Treasury proposes to amend 31 CFR part 344 as follows:

**PART 344 - U.S. TREASURY SECURITIES--STATE AND LOCAL
GOVERNMENT SERIES.**

1. The authority citation for part 344 continues to read as follows:

Authority: 26 U.S.C. 141 note; 31 U.S.C. 3102, 3103, 3104, and 3121.

2. Amend § 344.0, by revising paragraph (a) and removing paragraph (b)(3).

The revisions read as follows:

§ 344.0 What does this part cover?

(a) *What is the purpose of the SLGS securities offering?* The Secretary of the Treasury (the Secretary) offers for sale non-marketable State and Local Government Series (SLGS) securities to provide issuers of tax-advantaged bonds with investments from any eligible source of funds (as defined in § 344.1) to assist issuers in complying with applicable provisions of the Internal Revenue Code.

3. Amend § 344.1, by:

- a. Revising the definition of “Business day(s)”;
- b. Adding in alphabetical order a definition for “Cost-free option”;
- c. Revising the definition of “Eligible source of funds”;
- d. Adding in alphabetical order a definition for “Governmental purpose”;
- e. Revising the definition of “Issuer”;
- f. Adding in alphabetical order definitions for “Marketable security”; and “Tax-advantaged bond.”

The revisions and additions read as follows:

§ 344.1 What special terms do I need to know to understand this part?

Business day(s) means any day other than a Saturday or Sunday that the Federal Reserve Bank of New York is open for business.

Cost-free option means the use of any provision(s) in the SLGS program to exploit movements in interest rates, including, but not limited to, those designed to provide marginal flexibility to issuers in structuring their SLGS investments.

Eligible source of funds means:

(1) Any amounts that are gross proceeds of an issue of tax-advantaged bonds or are reasonably expected to become gross proceeds of such an issue of tax-advantaged bonds;

(2) Any amounts that formerly were gross proceeds of a tax-advantaged bond issue, but no longer are treated as gross proceeds of such issue as a result of the operation of the universal cap on the maximum amount treated as gross proceeds under 26 CFR 1.148-6(b)(2);

(3) Amounts held or to be held together with gross proceeds of one or more tax-advantaged bond issues in a refunding escrow, defeasance escrow, parity debt service reserve fund, or commingled fund (as defined in 26 CFR 1.148-1(b));

(4) Proceeds of a bond issue that is not an issue of tax-advantaged bonds but that refunds, or is refunded by, an issue of tax-advantaged bonds; or

(5) Any other amounts that are subject to yield limitations under the rules applicable to tax-advantaged bonds under the Internal Revenue Code.

Governmental purpose, under this part, means the issuer's expected use of the invested funds, including but not limited to, financing a construction project, repaying a prior issue of bonds, or funding a debt service reserve. Such use must be consistent with the purposes of the Income Tax Regulations under section 148 of the Internal Revenue Code. Generating gain on the proceeds of a bond issue through the use of a cost-free option in purchasing and redeeming SLGS is not a permitted governmental purpose.

Issuer refers to the government body or other entity that issues tax-advantaged bonds, or to a conduit borrower.

Marketable security, with reference to the types of securities that issuers are permitted to purchase with an eligible source of funds, means any security other than a SLGS security. Examples of marketable securities include Treasury securities (other than SLGS securities) and federal agency securities.

Tax-advantaged bond means tax-advantaged bond as defined in 26 CFR 1.150-1(b).

4. Amend § 344.2 by:

- a. Revising paragraph (d) and paragraph (e)(2)(i) introductory text;
- b. Adding paragraphs (e)(3) and (e)(4);
- c. Revising paragraph (f)(1), the second sentence of paragraph (f)(2)(iv), and the first sentence of paragraph (f)(2)(v);
- d. Adding paragraph (f)(2)(vii);and
- e. Revising the last sentence of paragraph (g).

The revisions and additions read as follows:

§ 344.2 What general provisions apply to SLGS securities?

(d) *Can SLGS securities be transferred?* No. SLGS securities issued as any one type, i.e., Time Deposit or Demand Deposit, cannot be transferred for other securities of that type or any other type. Transfer of securities by sale, exchange, assignment, pledge, or otherwise is not permitted.

(e) ***

(2) ***

(i) *Purchase of SLGS securities.* Upon submitting a subscription, or performing any other transaction for a SLGS security, a subscriber must certify that:

(3) *Duration certification.* For each subscription to purchase a Time Deposit SLGS security, the subscriber must certify that the term of the SLGS security subscribed for is no longer than reasonably necessary for the underlying governmental purpose of the investment.

(4) *Eligibility certification.* For each subscription to purchase a SLGS security, the subscriber must certify that if, at any point while SLGS securities are outstanding, the issuer becomes ineligible to purchase SLGS securities or the funds used to purchase SLGS securities are no longer an eligible source of funds, the issuer or agent thereof must, as soon as practicable, notify Treasury of such ineligibility. Such notification will be deemed to be a request for redemption of those outstanding Demand Deposit securities that are affected by the ineligibility.

(f) ***

(1) *Impermissible Transactions:*

(i) To use the SLGS program to create a cost-free option (while the following examples may specifically use marketable securities for illustration, creating a cost-free option via any means is prohibited);

(ii) To purchase a SLGS security with any amount received from the sale or redemption (at the option of the holder) before maturity of any marketable security, if the

yield on such SLGS security exceeds the yield at which such marketable security is sold or redeemed;

(iii) To invest any amount received from the redemption before maturity of a Time Deposit security (other than a Zero Percent Time Deposit security) at a yield that exceeds the yield that is used to determine the amount of redemption proceeds for such Time Deposit security; or

(iv) To purchase a SLGS security with a maturity that is longer than is reasonably necessary to accomplish the issuer's governmental purpose for its purchase of the SLGS security or to purchase a SLGS security with an intention to redeem such SLGS security earlier than is reasonably necessary to accomplish the issuer's governmental purpose for its purchase of the SLGS security.

(2) ***

(iv) *** To reduce or eliminate this negative arbitrage, the issuer subscribes for SLGS securities for purchase in 45 days. ***

(v) *** On February 6, 2006, an issuer purchases a Time Deposit security using an eligible source of funds from a debt service reserve fund. ***

(vii) *Purchase of SLGS security with maturity longer than reasonably necessary.*

An issuer may purchase SLGS securities to facilitate compliance with arbitrage yield restrictions for investments of various types of proceeds of tax-advantaged bonds, including investments in refunding escrow funds, bond debt service reserve funds, or project construction funds, respectively. The determination of whether a maturity for a SLGS security is longer than is reasonably necessary depends on the issuer's governmental purpose for the issuance. Thus, the maturities of SLGS securities invested in a refunding escrow fund are reasonably necessary if they are no longer than those

necessary to accomplish the defeasance of the underlying refunded bonds until the applicable redemption date or retirement date of the refunded bonds. Maturities of SLGS securities invested in a project construction fund are reasonably necessary if they are no longer than the reasonably expected construction period for the financed project, and early redemptions of such securities are reasonably necessary if they are reasonably related to construction draws for the financed project. Maturities of SLGS securities invested in a debt service reserve fund are reasonably necessary if they are no longer than the earlier of the permitted term of investments in that reserve fund under the bond documents or the term of the secured bonds. Early redemptions of SLGS securities with reasonably necessary maturities are permissible for the above bona fide business reasons, including changes in market interest rates. By contrast, the purchase of SLGS securities with maturities that are longer than the reasonably necessary maturities described above and associated early redemptions of those SLGS securities to obtain the funds within periods that would correspond to an issuer's bona fide governmental purpose for a SLGS investment constitute impermissible practices under paragraph (f)(1)(iv). Thus, for example, if an issuer purchases SLGS securities to fund a refunding escrow to be used to defease and call refunded bonds at the first call date in five years, the issuer's purchase of SLGS securities with maturities beyond that five-year period and corresponding early redemptions of those SLGS securities within that five-year period constitute an impermissible use of the SLGS program.

(g) *** Fiscal Service's ABA Routing Number can be found on Fiscal Service's website under the SLGS FAQs.

5. Amend § 344.3 by revising paragraph (e) to read as follows:

§ 344.3 What provisions apply to the SLGSafe Service?

(e) *How do I apply for SLGSafe access?* Submit to Fiscal Service a completed SLGSafe Application for Internet Access, which is found on Fiscal Service's Web site.

6. Amend § 344.4 by revising paragraph (b)(1) to read as follows:

§ 344.4 What are Time Deposit securities?

(b) ***

(1) *When is the SLGS rate table released?* We release the SLGS rate table to the public by 10 a.m. Eastern time each business day or as soon as practicable thereafter. If the SLGS rate table is not available by 11 a.m. Eastern time on any given business day, the SLGS rate table for the preceding business day applies.

7. Amend § 344.5 by revising paragraphs (a), (b), (d), (e), and (f), to read as follows:

§ 344.5 What other provisions apply to subscriptions for Time Deposit securities?

(a) *When is my subscription due?* The subscriber must set the issue date for the securities in the subscription. The issue date must be a business day. The issue date cannot be more than 45 days after the date we receive the subscription. If the subscription is for \$10 million or less, we must receive a subscription at least 5 days

before the issue date. If the subscription is for over \$10 million, we must receive the subscription at least 7 days before the issue date.

Example 1 to paragraph (a): If SLGS securities totaling \$10 million or less will be issued on May 16th, we must receive the subscription no later than May 11th. If SLGS securities totaling more than \$10 million will be issued on May 16th, we must receive the subscription no later than May 9th. In all cases, if SLGS securities will be issued on May 16th, we will not accept the subscription before April 1st.

(b) *How do I start the subscription process?* A subscriber starts the subscription process by entering into SLGSafe the following information:

- (1) The issue date;
- (2) The total principal amount;
- (3) The issuer's name and Taxpayer Identification Number;
- (4) A description of the tax-advantaged bond issue;
- (5) Separately itemized securities to be purchased, specifying principal amount, maturity date, interest rate, and first interest payment date (in the case of notes and bonds) for each; and
- (6) The certifications required by § 344.2(e).

(d) *How do I change a subscription?* You can change a subscription on or before 3 p.m. Eastern time, on the issue date. Changes to a subscription are acceptable with the following exceptions:

- (1) You cannot change the issue date; provided, however, you may change the issue date up to 7 days after the original issue date if you establish to the satisfaction of Treasury that such change is required as a result of circumstances that were unforeseen at

the time of the subscription and are beyond the issuer's control (for example, a natural disaster);

(2) You cannot change the principal amount originally specified for any security in the subscription by more than ten percent;

(3) You cannot change an interest rate to exceed the maximum interest rate in the SLGS rate table that was in effect for a security of comparable maturity on the business day that you began the subscription process; and

(4) You cannot change the maturity date originally specified for any security in the subscription by more than 30 days for certificates of indebtedness, 6 months for notes, and 1 year for bonds.

(e) *How do I complete the subscription process?* The completed subscription must:

(1) Be dated and submitted electronically by an official authorized to make the purchase;

(2) Separately itemize securities specifying principal amount, maturity date, interest rate, and first interest payment date (in the case of notes and bonds) for each;

(3) Describe the bond issue. If the tax-advantaged bond issue referenced in paragraph (b)(4) of this section is, or will be, registered or disclosed in the Municipal Securities Rulemaking Board's (MSRB) Electronic Municipal Market Access (EMMA®) system, describe the issue exactly as designated in the "issue description" field of EMMA®, or successor system;

(4) Include the issuer's address;

(5) Include information on the financial institution that will transmit the funds for the purchase of the securities and information on the financial institution that will receive security principal and interest payments;

(6) Not be more than ten percent above or below the aggregate principal amount originally specified in the subscription and not be more than ten percent above or below the originally subscribed for amount for each individual security;

(7) Not deviate from the original subscribed for maturity date specified for any security in the subscription by more than 30 days for certificates of indebtedness, 6 months for notes, and 1 year for bonds;

(8) Include the information required under paragraph (b) of this section, if not already provided; and

(9) Include the certifications required by § 344.2(e).

(f) *When must I complete the subscription?* We must receive a completed subscription on or before 3 p.m. Eastern time on the issue date.

8. Amend § 344.6 by revising paragraph (a)(3); and removing paragraph (g).

The revision reads as follows:

§ 344.6 How do I redeem a Time Deposit security before maturity?

(a) ***

(3) *Notes or bonds.* A note or bond can be redeemed, at the owner's option, no earlier than 30 days after the issue date. Any request for redemption received within 14 days of the issue date will be rejected.

9. Amend § 344.7 by revising paragraph (b) to read as follows:

§ 344.7 What are Demand Deposit securities?

(b) What happens to Demand Deposit securities during a Debt Limit Contingency?

At any time the Secretary determines that issuance of obligations sufficient to conduct the orderly financing operations of the United States cannot be made without exceeding the statutory debt limit, we may invest any unredeemed Demand Deposit securities in special 90-day certificates of indebtedness.

(1) Funds left invested in Demand Deposit securities remain subject to the normal terms and conditions for such securities as set forth in this part.

(2) Funds invested in 90-day certificates of indebtedness earn simple interest equal to the daily factor in effect at the time Demand Deposit security issuance is suspended, multiplied by the number of days outstanding. Ninety-day certificates of indebtedness are subject to the same request for redemption notification requirements as those for Demand Deposit securities and will be redeemed at par value plus accrued interest. If a 90-day certificate of indebtedness reaches maturity during a debt limit contingency, we will automatically roll it into a new 90-day certificate of indebtedness, along with accrued interest, that earns simple interest equal to the daily factor in effect at the time that the new 90-day certificate of indebtedness is issued, multiplied by the number of days outstanding. When regular Treasury borrowing operations resume, the 90-day certificates of indebtedness, along with accrued interest, will be reinvested in Demand Deposit securities.

10. Amend § 344.8 by revising paragraphs (a), (b), and (e) to read as follows:

§ 344.8 What other provisions apply to subscriptions for Demand Deposit securities?

(a) *When is my subscription due?* The subscriber must set the issue date in the subscription. You cannot change the issue date to require issuance earlier or later than the issue date originally specified; provided, however, you may change the issue date up to 7 days after the original issue date if you establish to the satisfaction of Treasury that such change is required as a result of circumstances that were unforeseen at the time of the subscription and are beyond the issuer's control (for example, a natural disaster). The issue date must be a business day. The issue date cannot be more than 45 days after the date we receive the subscription. If the subscription is for \$10 million or less, we must receive the subscription at least 5 days before the issue date. If the subscription is for more than \$10 million, we must receive the subscription at least 7 days before the issue date.

(b) *How do I start the subscription process?* A subscriber starts the subscription process by entering into SLG Safe the following information:

- (1) The issue date;
- (2) The total principal amount;
- (3) The issuer's name and Taxpayer Identification Number;
- (4) A description of the tax-advantaged bond issue; and

(5) The certifications required by § 344.2(e)(1), if the subscription is submitted by an agent of the issuer.

(e) *How do I complete the subscription process?* The completed subscription must:

(1) Be dated and submitted electronically by an official authorized to make the purchase;

(2) Describe the bond issue. If the tax-advantaged bond issue referenced in paragraph (b)(4) of this section is, or will be, registered or disclosed in the Municipal Securities Rulemaking Board's (MSRB) Electronic Municipal Market Access (EMMA®) system, describe the issue exactly as designated in the "issue description" field of EMMA®, or successor system;

(3) Include the issuer's address;

(4) Include the information on the financial institution that will transmit the funds for the purchase of the securities;

(5) Not be more than ten percent above or below the aggregate principal amount originally specified in the subscription;

(6) Include the information required under paragraph (b) of this section, if not already provided; and

(7) Include the certifications required by § 344.2(e)(1) (agent certification), § 344.2(e)(2)(i) (yield certification), and § 344.2(e)(4) (eligibility certification).

11. Amend § 344.9 by revising paragraph (a) to read as follows:

§ 344.9 How do I redeem a Demand Deposit security?

(a) *When must I notify Treasury to redeem a security?* Demand Deposit securities can be redeemed at the owner's option, if we receive a request for redemption not less than:

(1) One business day before the requested redemption date for total redemptions by an owner of \$10 million or less;

(2) Three business days before the requested redemption date for total redemptions by an owner of more than \$10 million but less than \$500 million; and

(3) Five business days before the requested redemption date for total redemptions by an owner of \$500 million or more.

Subpart D [Removed]

12. Remove Subpart D.

By the Department of the Treasury.

David Lebryk,

Fiscal Assistant Secretary.

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